

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MARCUS E. MALLET

PLAINTIFF

VS.

CIVIL ACTION NO. 3:17-cv-409-DPJ-FKB

WARDEN MARY RUSHING, et al

DEFENDANTS

ORDER SETTING OMNIBUS HEARING

This cause is before the Court on Defendants' Motion for an Omnibus Order [32]. The undersigned concludes that an omnibus hearing should be held in order to ensure that this case is moved expeditiously. Accordingly, the motion is granted.

At this hearing the Court will seek: 1) to determine if dismissal under 28 U.S.C. § 1915(e) is appropriate; 2) to define the issues to be litigated; 3) to assure appropriate discovery and to define the limitations of discovery; 4) to ascertain the potential witnesses and exhibits, and to provide appropriate assistance to the pro se litigant; 5) to entertain any motion of the parties; and, 6) to schedule further proceedings and a trial on the merits of the case if appropriate.

This hearing will operate as a *Spears* hearing, *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985), as well as a scheduling, discovery, status and pretrial conference under Rule 16, Fed. R. Civ. P. If appropriate, an Omnibus Order will be entered following the hearing which will constitute a Pretrial Order.

IT IS, THEREFORE, ORDERED:

1. The parties will appear for an omnibus hearing before the undersigned Magistrate Judge on Monday, July 2, 2018, at 2:00 p.m. in Courtroom No. 5D of the United States Courthouse, 501 E. Court Street, Jackson, Mississippi 39201.

2. The parties will be prepared to discuss at the hearing discovery necessary to prepare for trial. No requests for discovery will be served by the parties prior to the omnibus hearing.

3. The parties will complete the attached witness list of potential witnesses they propose to call at trial, providing appropriate addresses for each including the MDOC number, unit number and institution where those proposed witnesses who are incarcerated are housed. The parties will provide a brief summary of what each proposed witness would testify to at trial. The parties will bring the completed witness lists to the omnibus hearing.

4. THE PARTIES ARE WARNED THAT FAILURE TO PROVIDE THE ABOVE INFORMATION FOR EACH PROPOSED WITNESS OR FAILURE TO BRING THIS INFORMATION TO THE OMNIBUS HEARING WILL OPERATE AS A WAIVER OF THE RIGHT TO CALL THAT PERSON TO TESTIFY AT TRIAL.

5. The parties will complete the attached exhibit list by listing each document and/or object they propose to introduce as evidence at trial providing a brief description of each proposed exhibit and a short statement of the purpose for which the exhibit list will be introduced. The parties will bring the completed exhibit list to the omnibus hearing.

6. THE PARTIES ARE WARNED THAT FAILURE TO PROVIDE THE ABOVE INFORMATION FOR EACH PROPOSED EXHIBIT OR FAILURE TO BRING THIS INFORMATION TO THE OMNIBUS HEARING WILL OPERATE AS A WAIVER OF THE RIGHT TO HAVE THAT EXHIBIT INTRODUCED AS EVIDENCE AT TRIAL.

7. The defendant(s) shall bring copies to the hearing for both the Court and the plaintiff of all official documents regarding the plaintiff's incarceration at their facility. This shall include jail logs, RVR reports, and any other documentation relevant to the issues presented in the complaint.

8. If the complaint involves a medical claim, the defendant(s) shall bring copies to the hearing for both the court and the plaintiff all of the plaintiff's medical records which are available to the defendant(s). The plaintiff shall also bring any available medical records to the hearing.

9. The parties shall be prepared to make a full statement of each and every claim or defense and how they propose to prove those claims or defenses. All outstanding motions will be considered by the Court at this hearing. Any motion not brought before the Court at this omnibus hearing will be deemed abandoned and waived.

10. Motions to amend shall be filed not later than fourteen days prior to the hearing.

11. Any motions to dismiss for failure to exhaust administrative remedies shall be filed no later than seven days prior to the omnibus hearing.

12. A dispositive motion deadline will be set at a later date by the Court.

13. Cases not otherwise disposed of will be set for trial at a time to be announced by the Court.

SO ORDERED, this the 11th day of June, 2018.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE

EXHIBIT LIST

PLEASE LIST ALL OF THE EXHIBITS YOU WILL USE IN THE TRIAL OF YOUR CASE (papers, medical records, pictures, statements of witnesses, etc.). FOR EACH EXHIBIT LISTED, WRITE ON THIS SHEET:

1. A brief description of the exhibit;
2. A short statement of the purpose for which the exhibit will be introduced.

1.

2.

3.

4.

5.

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7.

WITNESS LIST

PLEASE LIST ALL PERSONS YOU WISH TO CALL AS A WITNESS IN THIS TRIAL OF YOUR CASE. FOR EACH PERSON LISTED, WRITE ON THIS SHEET:

1. Name;
2. MDOC number, if applicable;
3. Location or address;
4. Statement of their proposed testimony.

1.

2.

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